

ORDINANCE NO. 11-57

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA AMENDING CHAPTER 70 ENTITLED "RETIREMENT AND PENSIONS", ARTICLE VII. ELECTED OFFICIALS, DIVISION 3. BENEFITS, OF THE CODE OF ORDINANCES, AND IN PARTICULAR, BY ADDING A NEW SECTION HIALEAH CODE § 70-592 ENTITLED "PROHIBITION OF RETIREMENT BENEFITS UPON ELECTION TO CITY OFFICE OR CITY EMPLOYMENT TO PROHIBIT THE RECEIPT OF RETIREMENT BENEFITS UNDER THE CITY OF HIALEAH ELECTED OFFICERS' RETIREMENT TRUST IF AN ELECTED OFFICER, CITY ATTORNEY, ASSISTANT CITY ATTORNEY, IS ELECTED TO CITY OFFICE OR EMPLOYED BY THE CITY DURING THE TIME SUCH MEMBER HOLDS CITY OFFICE OR IS EMPLOYED BY THE CITY; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CODE; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the purpose and intent of this ordinance is to prohibit a retiree under the Elected Officers' Retirement Trust from receiving retirement benefits under the Elected Officers' Retirement Trust during the time period of city employment or serving in a city elected office; and

WHEREAS, on July 19, 2011, this ordinance was reported to the Board of Trustees of the Retirement System; and

WHEREAS, the City of Hialeah has received and reviewed an Actuarial Impact Statement and finds that this amendment has no financial impact.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: Chapter 70 entitled "Retirement and Pensions", Article VII. Elected Officials, Division 3. Benefits, of the Code of Ordinances of the City of Hialeah, Florida, is hereby amended to read as follows:

Chapter 70

RETIREMENT AND PENSIONS

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ARTICLE VII. ELECTED OFFICIALS

* * *

DIVISION 3. BENEFITS.

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Sec. 70-592. Prohibition of receipt of retirement benefits upon election to city office or city employment.

a. If a retired elected officer, who is receiving retirement benefits under this article, is elected to city office, such elected officer shall be prohibited from receiving benefits under this article during the time that such member holds city office or is employed by the city. This prohibition will not prevent such elected officer from receiving a salary and other emoluments of office while holding office or a salary or other benefits of employment while employed. However, at no time, shall an elected officer receive retirement benefits under this article during service as a city elected officer or as a city employee.

b. If a retired city attorney or assistant city attorney, who is receiving retirement benefits under this article, is elected to city office or is employed by the city, such city attorney or assistant city attorney is prohibited from receiving benefits under this article during the time such member holds city office or is employed by the city. This prohibition will not prevent such city attorney or assistant city from receiving a salary and other emoluments of office while holding office or a salary or other benefits of employment while employed. However, at no time, shall a city attorney or assistant city attorney receive retirement benefits under this article during service as a city elected officer or as a city employee.

Section 2: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

Section 3: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 4: Inclusion in Code.

The provisions of this ordinance shall be included and incorporated in the Code of Ordinances of the City of Hialeah, as an addition or amendment thereto, and the sections of this ordinance shall be renumbered, as appropriate, to conform to the uniform numbering system of the Code.

Section 5: Severability Clause.

If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 6: Effective Date.

This ordinance shall become effective when passed by the City Council and signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

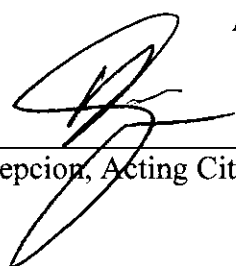
PASSED AND ADOPTED this 23rd day of August, 2011.

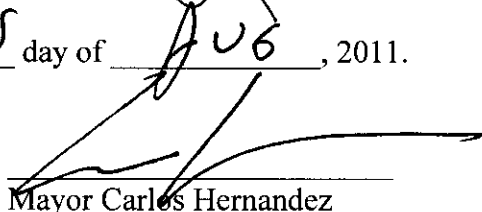
THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.


Isis Garcia-Martinez
Council President

Attest:

Approved on this 25 day of August, 2011.


David Concepcion, Acting City Clerk


Mayor Carlos Hernandez

Approved as to form and legal sufficiency:


William M. Grodnick, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

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Ordinance was adopted by a 6-0 vote with Councilmembers, Caragol, Casals-Muñoz, Garcia-Martinez, Gonzalez, Hernandez and Yedra voting "Yes", Councilmember Cue-Fuente absent.